Initial Report to the Medicaid Long-Term Care Task Force

Long Term Care Financing Recommendations

Presented by Workgroup B

March 14, 2005

Table of Contents

Introduction

The Michigan Medicaid Long Term Care Task Force charged Workgroup B to examine the subject of financing the state's system of long-term care supports and services. Members of the Financing Workgroup accepted the charge and are pleased to report their findings to the Long Term Care Task Force as it develops recommendations for the final report. Included in the charge were the following parameters, values and principles that the workgroup used to guide its activities in developing language for recommended changes or enhancements for the state's long-term care system. Members of the Finance Workgroup appreciate the opportunity to have participated in this planning process, and look forward to a continued involvement as the Task Force works to complete its final report and final recommendations.

Long Term Care System of Supports and Services
Charge to Financing Workgroup (B)

Overall Value: *Creates an efficient, dynamic, and high quality continuum of long-term care and supports including in-home services, assisted living of various kinds, care and supports coordination, respite, congregate living, hospice, primary health care, chronic care management, and acute care hospital services.*

Work Group	Principles/ Components:	
Workgroup B: Financing	5. Promotes efficient and appropriate movement across the continuum of LTC services by developing innovative financial policies that allow resources to follow the individual.	10. Dramatically increases the number of Michigan citizens who purchase long term care insurance or who develop other financial plans to support individual needs and desires across a continuum of long term care services.

Specific Charges to Workgroup B:

1. Recommend acceptance, modification, revision, an alternative, or rejection, including specific language for any alternative to, or modification of, the identified principle/component five and ten regarding financing.
2. For each agreed upon principle/component, recommend no less than three (3) ways (strategies and action steps) the state should implement the principles/components.
3. For each agreed upon principle/component, describe benchmarks for success and how these should be measured.
4. For each agreed upon principle/component, identify barriers, including financing, and make recommendations to address each barrier.
5. Create an ideal time frame for each recommendation.

6. Create a written rationale describing how each of the agreed upon principles/components and the set of recommendations meet Governor Granholm's charge to the Task Force.

Outcomes:

- Agreed upon principles/components regarding financing.
- A set of operational recommendations and ideal time frames for the state.
- A written rationale for these outcomes.
- A presentation of these outcomes to the full Task Force meeting in March.

Workgroup Process and Meeting Description

The Financing Workgroup, chaired by Janet Olszewski, included approximately sixty individuals, eleven of whom are members of the LTC Task Force. During the course of its discussions, workgroup members deliberated within the parameters of the Long-Term Care Task Force values and principles previously adopted, and following the direction of preliminary recommendations suggested by other workgroups already before the Task Force. Included in these values and principles are the standards of a person centered system, personal decision making, and supports and services that are designed to meet an individual's preferences and needs.

With a group of this size, it can be difficult to include every person in well-organized and in-depth discussions. Therefore, the workgroup organized itself into an eleven member "steering committee" and four subgroups that assumed responsibility for focusing upon key topic areas identified by the full workgroup membership. The four subgroups developed suggestions and recommendations related to the topics of 1) Maximizing Resources, 2) Funding Mechanisms, 3) Financing Single Points of Entry, and 4) Incentives. Subgroup membership was through self-selection in order to assure that individuals could work on the topic they chose. Each subgroup assumed responsibility for setting its own schedule and agenda, and working within the assigned charge.

Although time constraints and meeting logistics primarily allowed for participation in only one subgroup, individuals whose schedule permitted were not excluded from any of the subgroup discussions. The full Financing Workgroup met on a monthly basis during the same period of time in which the subgroups were developing their reports. During these monthly meetings, subgroup leaders reported on the progress that their respective groups were making, requested direction from the full membership in instances where their task was not clear, identified issues that were challenging or controversial within the subgroup, and obtained comments and suggestions from other members of the full workgroup. The use of this interactive process encouraged broad participation and kept all workgroup members involved as the subgroups worked on their respective tasks. In this manner, it was possible for workgroup members to participate in the development of all recommendations related to financing issues even though attendance at all subgroup meetings was not possible. While all sixty members of the Financing Workgroup were unable to attend every full workgroup meeting, attendance at these meetings typically averaged 35-40 people and reflected a broad involvement

The four subgroups, led by members of the Task Force, invested a great deal of time, energy, and thought during the course of their deliberations and in the drafting of their recommendations. Written reports from the four subgroups were presented to the entire membership of the Financing Workgroup in order to assure that all members had the opportunity to provide final comment, and make suggestions related to all topic areas prior to the presentation to the LTC Task Force on March 14, 2005.

General Funding Assertions

Members of the Finance Workgroup recognized that there are some general assumptions that can be made regarding the challenges currently facing the State of Michigan and that need to be addressed by the Task Force in its final report.

1) Current resources are not sufficient to adequately fund needed supports and services.
2) The demand for long-term care supports and services will continue to increase as the population ages and as longevity increases.
3) Medicaid dollars available to meet anticipated demands are already being fully utilized within the State of Michigan and federal support for future increases does not appear likely. While some efficiencies and cost savings of Medicaid dollars may be realized as part of the process of this review of the long-term care system, these dollars should not be expected to be sufficient to resolve existing financial shortages.
4) It is inescapable that in funding long-term care supports and services, state legislative leaders and state policy makers must take concerted action to identify and make available non-Medicaid sources of funding for necessary services regardless of popular or political opposition.
5) It is incumbent upon leaders of the state's executive and legislative branches to acknowledge that while long-term care supports and services for the state's population must be adequately funded, this should not occur at the expense of, or detriment to, other vital state services such as public safety, public education, and the general public welfare. It is further incumbent upon the state's leadership and decision-makers to avoid the "pitting" of those in need of long-term care supports and services against the need for other public services in the allocation of currently scarce public resources.
6) The state must make a commitment to reinvesting all dollars realized from cost savings identified within the long-term care system back into long-term care supports and services. As changes to the system are recommended it is critical that any identified savings are not viewed as a way to help balance the state budget during a difficult economic period, but rather as a way to assure that an adequate system of long-term care supports and services is available to residents of the State of Michigan.

Financing of Long-Term Care Supports and Services

A Georgetown University, Health Policy Institute, fact sheet (Updated July 2004) reports that while people needing long-term care needs rely heavily on unpaid help from family and friends, spending for services is substantial. Medicaid is reported as being the nation's largest source of financing, followed by out-of pocket payments by individuals using the services or their families. Medicare and private health insurance provide limited coverage, although few people have private long-term care insurance.

National spending for long-term care in 2002 totaled $180 billion. Of this total, 47% was from Medicaid, 21% from out-of-pocket, 17% from Medicare, 10% from private insurance, and the remaining 5% paid through other private and public sources.

The Georgetown University Long-Term Care Financing Project (July 2004 fact sheet) reports that approximately one half of Medicaid long-term care spending is used for the elderly with the rest used for non-elderly disabled individuals. Because of the country's aging population, the numbers of elderly people needing long-term care supports and services will increase. Consequently, Medicaid, like other programs that serve the elderly, is likely to see sharp spending increases.

The Kaiser Commission Foundation's report on Medicaid and the uninsured (July 2004) notes that while Medicaid assists individuals with services in institutions and in their homes or communities, actual spending is weighted toward institutional care (70% in 2002). While all states are required to provide institutional services, community-based services are often provided as an optional benefit or by waivers.

The Role of Medicaid in Financing Long-Term Supports and Services

Medicaid benefits for people who have long-term care needs are designed to assist those who meet financial and categorical eligibility criteria, therefore not all people who need long-term care services are eligible for Medicaid. However, as few individuals can afford to sustain private out-of-pocket payments for long-term nursing facility services many will eventually have to rely on Medicaid for their support. Private insurance for long-term care services is not extensively used although it may be possible to encourage an increase in the use of private insurance to alleviate some strain upon Medicaid resources.

Medicaid is currently the greatest source of funding that is used for publicly funded long-term care supports and services. As it is unlikely that sufficient alternative funding sources will be identified to support the increasing demand for those public supports and services, Medicaid will likely continue to be a key funding source for long term care. As such, it becomes critical to design a long-term care system that makes the best use of available Medicaid resources, and that provides services in the most effective and efficient fashion.

The Role of Medicaid Waivers in Financing Long-Term Supports and Services
Medicaid waivers provide a mechanism for states to obtain permission from the Center for Medicare and Medicaid Services to waive sections of the Social Security Act in order to operate a specific type of program separate from the approved state plan. The waivers are typically used to authorize managed care or alternative delivery systems, or reimbursement systems. They can also be used to expand the scope of the population covered under Medicaid provisions.

The first type of waiver available is a program waiver; 1915(b), 1915(c), and 1915 (b) 1915(c) concurrent. A second type of waiver is the Research and Demonstration waiver (1115 general). The third waiver possible is the Health Insurance Flexibility and Accountability (HIFA – 1115 Demonstration.) Each type of waiver serves a specific purpose and can be requested by the state to achieve the flexibility desired. Refer to informational attachment F.

While waivers are intended to provide flexibility to the states in administering Medicaid resources, they do not generate additional resources. A key requirement for a waiver approval by CMS is that the state can demonstrate budget neutrality.

The Role of Other Sources in Financing Long-Term Supports and Services

A combination of factors including limited public funding, an anticipated increase in the demand for long-term care supports, policies that are designed to support higher priced services, and increasing medical expenses, present challenges for everyone interested in long-term care issues. Serious consideration must be given to making public policy decisions that will allow the State of Michigan to meet its responsibility for addressing the need for long–term care services for its residents, while also meeting the responsibility to efficiently manage available resources on behalf of the public. It is critical that the discussion regarding financing long-term care needs includes consideration not only of how public dollars should be used, but also discussions to help identify all other available options. It is important to explore every possible means to effectively meet the long-term care needs of the state’s population.

Michigan’s Long Term Care Expenditures

Long term care expenditures by the Department of Community Health total $1.7 billion for Michigan. This amount is appropriated to the department and includes expenditures related to nursing homes, MCF/CCU, PACE, Home and Community Based Waiver, Adult Home Help, Personal Care and other. Additional expenditures for long-term care supports and services for the state’s residents occur through other state agencies or departments, however, this amount has not been calculated. Long-term care resources available within the state may come through areas such as Office of Services to the Aging, Michigan State Housing and Development Authority, and Family Independence Agency among others. While all personal resources directed toward long-term care supports and services are difficult to quantify, based on national data, out-of- pocket expenditures for long-term care account for 21% of total expenditures.

Workgroup (B) Recommendations

Overall Value

Following its meeting of November 19, 2004, the workgroup recommends revising the Overall Value included in its charge, to an Overall Goal that would read:

"OVERALL GOAL: Creates a broad, efficient, dynamic, and high quality system of long-term care services and supports, by developing and implementing innovative financial policies that allow resources to follow the individual.

Principles

Following the November 8, 2004, Steering Committee discussion, principle #10 was revised and presented to the full workgroup for discussion. The suggested revised principle reads:

"10. Based upon an established baseline, incrementally increases the number of Michigan citizens who purchase long term care insurance or who develop other financial plans to support individual needs and desires across a continuum of long term care services, by at least 05 percent each year for ten years."

Members of the full workgroup recommended that Principle #10 be referred for further discussion by the steering committee to address several issues. These issues include: 1) a concern that this language implies an obligation for personal responsibility in buying long term care insurance; 2) a suggestion that the phrase "who purchase" should be changed to "who use" or "who have"; and 3) a concern that issue of quality needs to be incorporated.

Recommendations adopted by full Financing Workgroup

The Financing Workgroup, as a whole, discussed the reports presented by the four subgroups at its final meeting of March 4, 2005. The initial recommendations presented by the subgroups were reviewed and in some cases revised. Please note that the four subgroup reports are attached in their entirety as appendices to this report and contain information that further elaborates upon the individual recommendations noted below. The subgroup reports include the recommendations as originally presented to the full workgroup so that the reader may refer to the original language. Based upon the consensus of workgroup participants at its meeting of March 4, and after reviewing comments that had been submitted to the subgroup leaders in advance of the meeting, the recommendations on the following pages are presented to the Task Force.

Workgroup B Recommendations Regarding Single Point of Entry

Recommendation 1: Defined Single Points of Entry should be funded at a statewide total cost of $66 million. Of this total, $36 million represents "shifted" dollars from current resources, and the remaining $30 million reflects newly committed dollars needed for this purpose. The state share of newly committed dollars needed for this purpose is $17.4 million.

A premise of this recommendation is that some of the additional funds may be gained through efficiencies realized in changes made to the long-term care system. Anticipated efficiencies resulting from more appropriate service provision and more streamlined funding mechanisms will result in savings. Based upon the current appropriation of $1.7 billion, identifying $30 million in efficiencies would be an achievable target as this figure represents 1.76 % of the LTC budget line.

Recommendation 2: The state portion of base funding for the SPE system should be financed by the use of Medicaid administrative funds along with additional funding supports from local and other resources.

This recommendation was written to recognize the importance of identifying additional sources of funding for the SPEs. The workgroup did not want to limit the potential for adequate funding by identifying only one source.

Recommendation 3: Workgroup B recommends full funding for external advocates to assist clients in accessing supports and services identified in the continuum of care overseen by the SPE system. Based on a conservative figure, the total budget line for this item would be $5 million dollars in addition to what is available now.

In a coordinated system, the need for external advocacy can be addressed through a number of organizations and agencies from which individuals can select. A single recommendation of the need for external advocacy to be a component of the single point of entry, regardless of an individual's living arrangement, was viewed as necessary by workgroup members.

Recommendation 4: Workgroup B recommends an additional principle to preserve long-term care protections for non-Medicaid individuals. The principle must prohibit the use of essential resources currently available for supports and services for non-Medicaid individuals from being shifted to cover supports and services for Medicaid eligible beneficiaries.

Workgroup B Recommendations Regarding Maximizing Resources

Recommendation 5: Workgroup B recommends that leaders of the state's executive and legislative branches make a commitment to take necessary actions to adequately fund long-term care supports and services for residents of Michigan. Decisions for adequate funding of long-term care services should be based upon identified needs and not be made at the expense of other vital publicly funded state services.

A variety of mechanisms are available to decision makers that can be used to assure adequate funding. During workgroup meeting conversations, a number of these methods *were raised and discussed. State leaders, however, have ultimate authority in deciding how to assure adequate funding and must make a commitment to considering all options.*

Recommendation 6: Workgroup B recommends that Michigan should decouple its estate tax from the federal estate tax.

Recommendation 7: Workgroup B recommends that Michigan identify sources of non-federal tax revenue that are utilized to provide long term care and support services for Medicaid consumers, and create policies and procedures that will allow these funds to be used as local match to capture additional federal Medicaid dollars for long term care and supports.

Recommendation 8: Workgroup B recommends that the Michigan Congressional Delegation be asked to strongly advocate that the federal government assume full responsibility for the health care needs of individuals who are dually eligible for Medicare and Medicaid.

Recommendation 9: Workgroup B recommends that the Michigan Congressional Delegation be asked to urge the Congress to revise the current FMAP formula to a more just methodology using Total Taxable Resources or a similarly broader measure and to shorten the time frame from the data reporting period to the year of application.

Recommendation 10: Workgroup B recommends that the appropriate state agencies assure resources and staff with the requisite expertise necessary to provide the detailed analysis needed to implement these and other recommendations of the Task Force.

Workgroup B Recommendations Regarding Funding Mechanisms

Recommendation 11: As an initial step, Michigan should adopt a Case-Mix reimbursement system to fund LTC services and supports. This approach sets provider rates according to the acuity mix of the clients served. The higher the acuity, the higher the rate paid to the provider due to the resources needed to care for the clients.

As the long-term care system evolves, other appropriate funding mechanisms should also be considered and adopted; e.g., managed care and hybrid models.

The workgroup members determined that it is important to recognize that, while the initial step is to use a case mix system for reimbursement purposes, there are additional models that may be as effective for long-term care reimbursements. These may be identified over the next few years as the current system evolves into a more efficient model.

Workgroup B Recommendations Regarding Incentives

Recommendation 12: Subject to appropriate reviews for actuarial soundness, overall state budget neutrality, and federal approvals, Michigan should establish a mandatory estate preservation program instead of establishing a traditional Medicaid Estate Recovery Program.

This program should consist of an assessment for all residential property, based on a mortgage fee of approximately $1.00 monthly, coupled with a LTC Insurance state Tax Deduction of at least $1,000 annually for LTC Insurance Policies with at least $100,000 in lifetime benefits. With an estimated 2.6 residential mortgages in Michigan, the assessment would raise $31 million. If necessary to comply with federal requirements for a traditional estate recovery program, consideration should be given to combining a traditional estate recovery provision with an optional estate preservation provision.

Recommendation 13: Workgroup B recommends legislation that promotes the purchase of long-term care insurance policies and that addresses ratemaking requirements, insurance standards, consumer protections, and incentives for individuals and employers.

An important incentive that could be provided to employers and individuals to look after their own long-term care needs rather than rely on Medicaid to provide those services would be to promote the purchase of long-term care insurance policies. The incentives subgroup believes progress could be made in this area if legislation were proposed that would solve some of these problems. The Office of Financial and Insurance Services (OFIS) has drafted legislation that will work toward solving these problems. The OFIS legislation includes ratemaking requirements that should substantially decrease the volatility of long-term care insurance rates over the life of the policy. The proposed legislation would put into place many consumer protections regarding rate regulation. The subgroup would also recommend that other coverage requirements be put into long-term care insurance products to promote incentives for both employers and individuals to purchase policies.

Recommendation 14: The workgroup recommends three specific strategies aimed at increasing the number of people in Michigan who have long term care insurance. 1) The first is to gain federal approval for the use of the Long Term Care Insurance Partnership Programs. 2) A second strategy to increase the number of those in Michigan who have LTC insurance is to expand the state employees' self-funded, long-term care insurance program. 3) A third strategy is to examine the possibility of a state income tax credit for purchase of long-term care insurance.

The group did talk about a single state long-term care insurance program that would cover any resident who wanted to buy in. However, further study is needed prior to making any recommendations.

Recommendation 15: Workgroup B recommends that tax credits or tax deductions for the purchase of long-term care insurance policies be considered.

The SFA reports that several other states have adopted these mechanisms.

Recommendation 16: Workgroup B recommends that tax deductions or tax credits for out-of-pocket costs related to long-term care be considered.

This was revised to more clearly reflect that the intent is to address out-of-pocket expenses. Legislation introduced in the current session would permit a $1,000 refundable credit. The SFA estimates a reduction in revenue of $8 million.

Recommendation 17: Workgroup B recommends that a “special tax exemption” for taxpayers who provide primary care for an eligible parent or grandparent (and possibly others) be explored. Based upon a $1,500 exemption proposed in legislation introduced in 2003, the SFA estimates cost to the state in reduced revenue at less than $1 million.

This recommendation is based upon previously introduced legislation and the costs reflect the estimates based upon the bill as written. Broadening the scope of the recommended exemption for others would need to reflect additional costs to the state.

On their own some of the options for financial incentives may not have a significant impact upon individuals. It may make sense to implement several different methods. In order to have as broad an impact as possible for families and individuals who are providing long-term care services and supports, they should be considered as a package. Cost implications to the state may well be offset by adopting good public policy that provides incentives for families and individuals willing to continue long-term caregiving efforts, and thus delay the need for publicly funded services.

In addition to considering incentives for families and individuals, it may also make sense to examine the possibility of offering incentives to employers who provide long-term care insurance as a part of their benefit packages.

Recommendation 18: Workgroup B recommends local and regional programs that support caregivers in their care-giving efforts.

In 1988 the Office of Services to the Aging implemented a Volunteer Service Credit Program to evaluate the feasibility of a statewide service credit program. The administrative costs were significant, and documenting and tracking the service credits seemed to interfere with service provision. Based on this previous experience in Michigan the group recommends against a similar statewide effort for a volunteer service credit program.

Note regarding recommendations 19-24:

There is some perception that trusts and annuities are being used as tools to obtain Medicaid eligibility for wealthy Michigan residents who are capable of using their own resources for long-term care or finding other means of financing long-term care such as purchasing long-term care insurance. The Incentives Subgroup reviewed the types of trusts and annuities used in Medicaid planning, the federal and state statutory and regulatory basis for treatment of trusts and annuities in Medicaid eligibility *determinations. There is insufficient data available at this time to be able to make recommendations about possible limitations on the use of trusts and annuities. In addition to the concern regarding trusts and annuities is a concern that there are some individuals and businesses that obtain funding from Medicaid through the use of fraudulent practices, reducing already scarce resources.*

Recommendation 19: Workgroup B recommends ongoing and centralized data collection of trusts and annuities by FIA to guide the need for state regulation.

At this time the local caseworkers have the asset information and BLA has copies of the trusts and annuities. More information is needed to focus efforts on those that abuse the system.

Recommendation 20: Workgroup B recommends the review and strengthening, along with strict and consistent enforcement, of laws and regulations governing the inappropriate use of trusts and annuities for Medicaid eligibility.

Recommendation 21: Workgroup B recommends more frequent, vigorous, and publicized prosecution of those who financially exploit vulnerable individuals.

There are already criminal and civil statutes in place that can be used to punish those who abuse vulnerable adults. These must be more actively enforced.

Recommendation 22: Workgroup B recommends more cooperation between state agencies in discovering and combating Medicaid fraud, and recovering funds paid for inadequate care.

There are already statutes and regulations in place that can be used to go after providers who fraudulently bill Medicaid. "Qui Tam" legislation should also be considered.

Recommendation 23: Workgroup B recommends new legislation for the regulation by the state of "trust mills" and annuity companies. This legislation should address the prevention of abusive sales tactics through the implementation of insurance industry regulations, registration of out-of-state companies, and prescreening of sales materials.

In addition, disallowing balloon annuities while continuing to allow annuities paid out in equal payments over the person's life expectancy could help to curb abusive sales and prevent Medicaid fraud.

Recommendation 24: Workgroup B recommends that the appropriate state agencies analyze and quantify the relationship between public and private resources, including both time and money, spent on long- term care. This analysis should be used as a way to obtain a match for federal Medicaid dollars.

During the course of its discussions, members of the Maximizing Resources subgroup identified a number of issues important to long-term care that require further review, *comment, and discussion. As time constraints did not permit the group to fully evaluate these issues, along with the fact that they may need to be addressed in a different forum, they are included for informational purposes in the subgroup's report . Please refer to informational attachment B.*

Conclusion and Findings

The purpose of the Financing Workgroup was to identify, for Task Force members, various options and possible recommendations for enhancing financing of long-term care supports and services. Although financial resources were frequently discussed, so were non-financial resources as were methods to improve and expand upon how resources are currently used. It is important to note that the task for the workgroup was not an easy one, and that while general agreement was reached on a number of possibilities and recommendations, no single solution – or "magic bullet"- that would solve all existing problems was agreed upon. The contribution that members of the Financing Workgroup have been able to make has been to provide a broad and comprehensive analysis of the issues currently facing us. There was a broad representation of agencies, priorities, issues and opinions brought forward during the workgroup's process and activities that resulted in the suggestions that the workgroup is presenting to the Medicaid LTC Task Force. Members of the workgroup provided their best critical thinking in developing suggestions for how effective long-term care supports and services can best be financed.

Members of the Long Term Care Task Force face a tremendous challenge in developing recommendations for its final report, and members of this workgroup appreciate the opportunity to have been actively involved in the discussions and able to offer their expertise and assistance. Members of this workgroup would like to note that, despite existing challenges, there are decisions that can be made and some actions that can be readily taken to move Michigan's long-term care system forward. It is important to keep in mind that we are looking at implementing changes over the next five to ten years and when a recommended change appears to be a daunting task even a single step in the right direction must be viewed as an accomplishment. Regardless of how difficult a particular challenge appears, whether it is declining revenues, increasing demands, or existing policies, it is important that the Task Force maintain its focus on making solid recommendations for improving or enhancing long-term care supports and services available to people in this state.

INFORMATIONAL ATTACHMENTS

A THROUGH G